

1 • **Washington Clean Air Act (RCW 70.94) and Associated Regulations**

2 Most of the provisions of the Washington Clean Air Act mirror the requirements of the Federal Clean
3 Air Act. The Federal Clean Air Act establishes a minimum or “floor” for Washington air quality
4 programs. The Washington Clean Air Act authorizes Ecology and local air pollution control
5 authorities to implement programs consistent with the Federal Clean Air Act. For example, the
6 Washington Clean Air Act authorizes an operating permit program, enhanced civil penalties, new
7 administrative enforcement provisions, motor vehicle inspections, and provisions addressing ozone
8 and acid rain.

9
10 Washington State also has an extensive set of regulations governing toxic air pollutants (WAC
11 173-460). These regulations are similar to the programs for regulating hazardous air pollutants under
12 the Federal Clean Air Act. In contrast to the Federal Clean Air Act program, which applies to new
13 and existing emission sources, the toxic air pollutant rules apply only to new sources and any
14 modification of an existing source where the modification will increase emissions of toxic air
15 pollutants. Ecology’s toxic air pollutant rules are implemented under the New Source Review
16 Program.

17
18 The Washington State Department of Health regulations, “Radiation Protection—Air Emissions”
19 (WAC 246-247), contain standards and permit requirements for the emission of radionuclides to the
20 atmosphere from DOE facilities based on Ecology standards, “Ambient Air Quality Standards and
21 Emission Limits for Radionuclides” (WAC 173-480).

22
23 The local air authority, Benton Clean Air Authority, enforces regulations pertaining to detrimental
24 effects, fugitive dust, incineration products, odor, opacity, asbestos, and sulfur oxide emissions. The
25 Authority also has been delegated authority to enforce the EPA asbestos regulations.

26
27 Many of the preceding statutes are further discussed in the following subsections.

28
29 **6.2 Land-Use Management**

30
31 In September 1999, DOE issued the *Final Hanford Comprehensive Land-Use Plan Environmental*
32 *Impact Statement* (DOE 1999). The Record of Decision (ROD) issued in November 1999 (64 FR 61615)
33 states that the purpose of the land-use plan and its implementing policies is to facilitate decision making
34 about the Hanford Site’s uses and facilities over at least the next 50 years. The ROD adopts the Preferred
35 Alternative land-use maps, designations, policies, and implementing procedures as described in the
36 1999 EIS and designates the Central Plateau (200 Areas) for Industrial-Exclusive use (Figure 4.2). This
37 designation would allow for continued waste management operations in the 200 Areas.

38
39 The Hanford Reach National Monument was created on June 9, 2000, by a proclamation signed by
40 President Clinton under the authority of the Antiquities Act of 1906 (65 FR 37253). The Monument
41 includes 792.6 km² (306 mi²) of federally owned land making up a portion of the Hanford Site
42 (Figure 4.3). The principal components of the Monument are the Fitzner/Eberhardt Arid Lands Ecology
43 Reserve (ALE), the McGee Ranch and Riverlands area, the Saddle Mountain National Wildlife Refuge,
44 the quarter mile Hanford Reach Act (Hanford Reach Act [1988] as amended by Public Law 104-333)

study strip along the south and west sides of the Columbia River corridor, the federally owned islands within the portion of the Columbia River included in the Monument, and the Hanford Sand Dune Field (Figure 4.3). FWS manages approximately 67,000 ha (166,000 ac) of Monument lands that are within ALE and the Wahluke Slope (Wahluke Unit and Saddle Mountain Unit) under permit from DOE. The Washington State Department of Fish and Wildlife manages approximately 324 ha (800 ac) of the Monument through a permit with DOE. The remainder of the Monument is managed by DOE. The June 9, 2000, proclamation does not affect the responsibilities and authority of DOE on Hanford Site lands nor does it affect DOE activities on lands not included within the Monument boundaries. In a separate memorandum to the Secretary of Energy, DOE was directed by the President to protect the natural values of the Hanford Site land not included within the Monument (Clinton 2000). DOE and FWS signed a Memorandum of Understanding on June 14, 2001, covering management responsibilities for the Monument. FWS issued a Notice of Intent to prepare a comprehensive conservation plan and associated EIS for the Monument in June 2002 (67 FR 40333).

6.3 Hanford Federal Facility Agreement and Consent Order

The Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement [TPA]) is an agreement between DOE, the U.S. Environmental Protection Agency (EPA), and Ecology (Ecology et al. 1989) for achieving compliance at the Hanford Site with RCRA (42 USC 6901 et seq.), CERCLA (42 USC 9601 et seq.), and the Washington State Hazardous Waste Management Act. The TPA (1) defines CERCLA, RCRA, and Washington State cleanup commitments and sets due dates, (2) establishes responsibilities among the agencies, and (3) reflects the goal of achieving regulatory compliance and completing remediation activities with enforceable milestones.

RCRA was enacted in 1976 and was significantly amended by the Hazardous and Solid Waste Amendments of 1984. RCRA establishes requirements covering handlers of hazardous waste, including generators, transporters, and those who own or operate hazardous waste treatment, storage, and disposal facilities. RCRA also authorizes EPA to regulate underground tank storage of substances other than hazardous waste and the disposal of nonhazardous solid waste. RCRA does not apply to any activity or substance that is subject to the Atomic Energy Act except to the extent that such application or regulation is not inconsistent with the requirements of the Atomic Energy Act [42 USC 6905(a)]. CERCLA is a federal statute designed to respond to past disposal of hazardous substances. CERCLA provides EPA the authority to clean up sites where disposal of hazardous substances has occurred. Section 120 of CERCLA (42 USC 9620) provides that federal agencies are subject to and shall comply with CERCLA to the same extent as nongovernmental entities. Section 105 of CERCLA (42 USC 9605) directs EPA to prepare the national contingency plan (NCP) containing procedures for cleanup response actions. The plan appears at 40 CFR 300. The National Priorities List (NPL) is part of the NCP. Four areas of the Hanford Site (100, 200, 300, and 1100) were listed on the NPL in November 1989. The 1100 Area was subsequently delisted. The TPA was entered into in 1989 in anticipation that the Hanford Site would be placed on the NPL. The Washington Hazardous Waste Management Act provides the statutory basis for the regulation of hazardous waste in Washington.